

Introduced by Senator Bowen

February 18, 2005

An act to amend Section 25354.5 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 566, as amended, Bowen. Controlled substances: removal actions.

Existing

(1) *Existing* law requires the Department of Toxic Substances Control to take removal actions with respect to a hazardous substance that is an illegal controlled substance, including waste material from the unlawful manufacture of a controlled substance. The department is required to take specified actions upon the request of the local environmental health officer *to the extent that sufficient funds are made available to the department.* ~~The~~

This bill would additionally authorize the designated local response agency to make this request to the department and would also make conforming changes.

(2) *Existing law authorizes the department to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this the purpose of taking removal action with respect to a hazardous substance that is an illegal controlled substance and authorizes the department to adopt regulations to implement these provisions, in consultation with appropriate law enforcement and local environmental agencies.*

This bill would require the department, on or before January 1, 2007, to adopt regulations, in consultation with the Office of Environmental Health Hazard Assessment, to provide state and local

agencies with standards and procedures for taking a remedial action at such a hazardous substance release site, including providing for a level of cleanup that would protect the health and safety of the all future occupants to the site, *and the environment*.

~~The bill would additionally authorize the designated local response agency to make this request to the department and would also make conforming changes.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25354.5 of the Health and Safety Code
2 is amended to read:
3 25354.5. (a) Any state or local law enforcement officer or
4 investigator or other law enforcement agency employee who, in
5 the course of an official investigation or enforcement action
6 regarding the manufacture of any illegal controlled substance,
7 comes in contact with, or is aware of, the presence of a substance
8 that the person suspects is a hazardous substance at a site where
9 an illegal controlled substance is or was manufactured, shall
10 notify the department for the purpose of taking removal action, as
11 necessary, to prevent, minimize, or mitigate damage that might
12 otherwise result from the release or threatened release of the
13 hazardous substance, except for samples required under Section
14 11479.5 to be kept for evidentiary purposes.
15 (b) (1) Notwithstanding any other provision of law, upon
16 receipt of a notification pursuant to subdivision (a), the
17 department shall take removal action, as necessary, with respect
18 to any hazardous substance that is an illegal controlled substance,
19 a precursor of a controlled substance, a material intended to be
20 used in the unlawful manufacture of a controlled substance and
21 any container for such a material, a waste material from the
22 unlawful manufacture of a controlled substance, or any other
23 item contaminated with a hazardous substance used or intended
24 to be used in the manufacture of a controlled substance. The
25 department may expend funds appropriated from the Illegal Drug
26 Lab Cleanup Account created pursuant to subdivision (e) to pay
27 the costs of removal actions required by this section. The
28 department may enter into oral contracts, not to exceed ten

1 thousand dollars (\$10,000) in obligation, when, in the judgment
2 of the department, immediate corrective action to a hazardous
3 substance subject to this section is necessary to remedy or
4 prevent an emergency.

5 (2) The department shall, as soon as the information is
6 available, report the location of any removal action that will be
7 carried out pursuant to paragraph (1), and the time that the
8 removal action will be carried out, to the local environmental
9 health officer or designated local response agency within whose
10 jurisdiction the removal action will take place, if the local
11 environmental ~~officer~~ *health officer* or designated local
12 response agency does both of the following:

13 (A) Requests, in writing, that the department report this
14 information to the local environmental health officer or
15 designated local response agency.

16 (B) Provides the department with a single 24-hour telephone
17 number to which the information can be reported.

18 (c) (1) For purposes of Chapter 6.5 (commencing with
19 Section 25100) or this chapter, any person who is found to have
20 operated a site for the purpose of manufacturing an illegal
21 controlled substance or a precursor of an illegal controlled
22 substance is the generator of any hazardous substance at, or
23 released from, the site that is subject to removal action pursuant
24 to this section.

25 (2) During the removal action, for purposes of complying with
26 the manifest requirements in Section 25160, the department, the
27 county health department, the local environmental health
28 officer, ~~or~~, *or* designated local response agency, or their designee
29 may sign the hazardous waste manifest as the generator of the
30 hazardous waste. In carrying out that action, the department, the
31 county health department, the local environmental health officer,
32 or designated local response agency, or their designee shall be
33 considered to have acted in furtherance of their statutory
34 responsibilities to protect the public health and safety and the
35 environment from the release, or threatened release, of hazardous
36 substances, and the department, the county health department, the
37 local environmental health officer, ~~or~~, *or* designated local
38 response agency, or their designee are not responsible parties for
39 the release or threatened release of the hazardous substances.

1 (3) The officer, investigator, or agency employee specified in
2 subdivision (a) is not a responsible party for the release or
3 threatened release of any hazardous substances at, or released
4 from, the site.

5 (d) (1) Except as provided in paragraph (2), the department
6 may adopt regulations to implement this section in consultation
7 with appropriate law enforcement and local environmental
8 agencies.

9 (2) On or before January 1, 2007, the department shall adopt
10 regulations, in consultation with the Office of Environmental
11 Health Hazard Assessment, to provide state and local agencies
12 with procedures and standards for taking remedial actions with
13 respect to any hazardous substance release that is an illegal
14 controlled substance, a precursor of a controlled substance, a
15 material intended to be used in the unlawful manufacture of a
16 controlled substance, or a waste material from the unlawful
17 manufacture of a controlled substance. The procedures and
18 standards shall ~~assure~~ *ensure* that the site of the release is cleaned
19 to a level that the department determines would adequately
20 protect the health and safety of all future occupants of the site,
21 *and the environment*.

22 (e) The Illegal Drug Lab Cleanup Account is hereby created in
23 the General Fund and the department may expend any money in
24 the account, upon appropriation by the Legislature, to carry out
25 the removal actions required by this section. The account shall be
26 funded by moneys appropriated directly from the General Fund.

27 (f) The responsibilities assigned to the department by this
28 section apply only to the extent that sufficient funding is made
29 available for that purpose.